

THE HONORABLE _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNIVERSAL POLYGRAM
INTERNATIONAL PUBLISHING, INC.,
CENTER CITY MUSIC, PAL PARK
MUSIC, and RAY VAUGHAN MUSIC,
INC.,

Plaintiffs,

v.

JAMISON AND MCFARLAND, LLC,
SHIMON SHRIKI, and MICHELLE
SHRIKI,

Defendants.

No. _____

COMPLAINT

Plaintiffs, by their undersigned attorneys, allege:

1. This is a suit for copyright infringement under Title 17 of the United States Code.
2. Plaintiffs allege three (3) causes of action for copyright infringement based on the Defendants' public performances of Plaintiffs' copyrighted musical compositions. SCHEDULE A, annexed to the Complaint, sets forth in summary form the allegations hereinafter made with respect to the Plaintiffs, their copyrighted musical compositions, and Defendants' acts of infringement.

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PARTIES

3. The Plaintiffs named in Column 2* are the owners of the copyrights in the original musical compositions listed in Column 3, and are properly joined in this complaint under Rule 20 of the Federal Rules of Civil Procedure.

4. On information and belief, Defendant Jamison and McFarland, L.L.C. is a limited liability company organized under the laws of the state of Washington.

5. At all times hereinafter mentioned, Jamison and McFarland, L.L.C. did, and still does, own, control, manage, operate, and maintain a place of business for public entertainment, accommodation, amusement, and refreshment known as J&M Cafe, located at 201 1st Avenue South, Seattle, Washington 98104.

6. Musical compositions were and are publicly performed at J&M Cafe.

7. On information and belief, defendant Shimon Shriki is an individual who works and/or resides in this district.

8. On information and belief, defendant Michelle Shriki (and, collectively with Jamison and McFarland, L.L.C. and Shimon Shriki, the “Defendants”) is an individual who works and/or resides in this district.

9. On information and belief, at all times hereinafter mentioned, defendants Shimon Shriki, and Michelle Shriki, were, and still are, Managing Members of Jamison and McFarland, L.L.C.

10. On information and belief, at all times hereinafter mentioned, defendants Shimon Shriki, and Michelle Shriki, were, and still are, jointly responsible for the control, management, operation and maintenance of the affairs of Jamison and McFarland, L.L.C.

* All references to “columns” herein refer to the numbered columns set forth in SCHEDULE A.

1 11. At all times hereinafter mentioned, Defendants jointly had, and still have, the
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3 right and ability to supervise and control the activities that take place at J&M Cafe, including the
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5 right and ability to supervise and control the public performance of musical compositions at
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7 J&M Cafe.
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10 12. Each Defendant derives a direct financial benefit from the public performance of
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12 musical compositions at J&M Cafe.
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15 **JURISDICTION AND VENUE**

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18 13. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a), and venue in this
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20 District is proper pursuant to 28 U.S.C. § 1400(a).
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23 **FACTS AND BACKGROUND**

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25 14. The Plaintiffs are all members of the American Society of Composers, Authors,
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27 and Publishers (“ASCAP”), a membership association that represents, licenses, and protects the
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29 public performance rights of its nearly 700,000 songwriter, composer, and music publisher
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31 members.
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35 15. Each ASCAP member grants to ASCAP a non-exclusive right to license the
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37 performing rights in that member’s copyrighted musical compositions. On behalf of its
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39 members, ASCAP licenses public performances of its members’ musical works, collects license
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41 fees associated with those performances, and distributes royalties to its members, less ASCAP’s
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43 operating expenses.
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47 16. Since June 2013, ASCAP representatives have made more than thirty-five (35)
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49 attempts to contact the Defendants, or their representatives, agents, or employees, to offer an
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1 ASCAP license for J&M Cafe. ASCAP has contacted Defendants by phone, by mail, by e-mail,
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3 and in person.
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5 17. ASCAP's various communications put Defendants on notice that unlicensed
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7 performances of ASCAP's members' musical compositions at J&M Cafe constitute copyright
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9 infringement of ASCAP's members' copyrights in their musical works.
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11 18. Defendants have refused all of ASCAP's license offers for J&M Cafe.
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13 19. Notwithstanding the foregoing, Defendants have continued to present public
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15 performances of the copyrighted musical compositions of ASCAP members at J&M Cafe,
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17 including the copyrighted works involved in this action, without permission, during the hours
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19 that J&M Cafe is open to the public for business and presenting musical entertainment.
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24 CAUSES OF ACTION

25 COPYRIGHT INFRINGEMENT

26 20. Plaintiff's reallege and incorporate by reference, as if fully set forth herein, the
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28 allegations in paragraphs 1-19 above.
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30 21. Each of SCHEDULE A's three rows sets forth a cause of action for copyright
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32 infringement against Defendants.
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34 22. The original musical compositions listed in Column 3 were created and written by
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36 the persons named in Column 4.
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38 23. Each composition was published on the date stated in Column 5, and since the
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40 date of publication has been printed and published in strict conformity with Title 17 of the
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42 United States Code.
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1 24. The Plaintiffs named in each cause of action, including their predecessors in
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3 interest, if any, complied in all respects with Title 17 of the United States Code, secured the
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5 exclusive rights and privileges in and to the copyright of each composition listed in Column 3,
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7 and received from the Register of Copyrights a Certificate of Registration, identified as set forth
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9 in Column 6.
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12 25. Defendants on the dates specified in Column 7, and upon information and belief,
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14 at other times prior and subsequent thereto, infringed the copyright in each composition named
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16 in Column 3 by giving public performances of the compositions on Defendants' premises, for the
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18 entertainment and amusement of the patrons attending said premises, and Defendants threaten to
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20 continue such infringing performances.
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24 26. The public performances on Defendants' premises of the Plaintiffs' copyrighted
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26 musical compositions on the dates specified in Column 7 were unauthorized: neither Defendants,
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28 nor any of the Defendants' agents, servants or employees, nor any performer was licensed by, or
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30 otherwise received permission from any Plaintiff, or any agent, servant, or employee of any
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32 Plaintiff, to give such performances.
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35 27. In undertaking the conduct complained of in this action, Defendants knowingly
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37 and intentionally violated Plaintiffs' rights.
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40 28. The many unauthorized performances at J&M Cafe include the performances of
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42 the three copyrighted musical compositions upon which this action is based.
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45 29. At the times of the acts of infringement complained of, the Plaintiff named in
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47 each cause of action was the owner of the copyright in the composition therein named.
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1 30. The said wrongful acts of the Defendants have caused and are causing great injury
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3 to the Plaintiffs, which damage cannot be accurately computed, and unless this Court restrains
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5 the Defendants from the further commission of said acts, said Plaintiffs will suffer irreparable in-
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7 jury, for all of which the said Plaintiffs are without any adequate remedy at law.
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11 **PRAYER FOR RELIEF**
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13 WHEREFORE, Plaintiffs pray:
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15 A. That Defendants and all persons acting under the direction, control, permission or
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17 authority of Defendants be enjoined and restrained permanently from publicly performing the
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19 aforementioned compositions or any of them and from causing or permitting the said
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21 compositions to be publicly performed in Defendants' said premises, or in any place owned,
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23 controlled, manage, or operated by Defendants, and/or from aiding or abetting the public
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25 performance of such compositions in any such place or otherwise.
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29 B. That Defendants be decreed to pay such statutory damages as to the Court shall
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31 appear just, as specified in 17 U.S.C. § 504(c)(1), namely, not more than Thirty Thousand
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33 Dollars (\$30,000) nor less than Seven Hundred and Fifty Dollars (\$750) in each cause of action
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35 herein.
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38 C. That Defendants be decreed to pay the costs of this action and that a reasonable
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40 attorney's fee be allowed as part of the costs.
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43 D. For such other and further relief as may be just and equitable.
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1 DATED this 25th day of February, 2019.
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3

4 s/ Harry H. Schneider, Jr., WSBA No. 9404

5 s/ Heath Hyatt WSBA No. 54141

6 Harry H. Schneider, Jr., WSBA No. 9404

7 Heath L. Hyatt, WSBA No. 54141

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18 *Music, Pal Park Music, and Ray Vaughan*
19 *Music, Inc.*
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